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## ***English Learners and Evaluation for Special Education***

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities. Title VI protects denial of equal access to education, including regular or special education instructional programs. English learner staff, such as English learner teachers, must be involved in the evaluation process for inclusion in all district's programs, including but not limited to Title I, RTI, special education, gifted/talent, so that limited English proficient students have equal access to all programs while accounting for how the students' abilities are influenced by their limited English proficiency.

The rules governing the provision of special education in Indiana, commonly referred to as [Article 7](#), include provisions regarding limited English proficient students and the educational evaluation process for special education. Inclusion of qualified EL staff in the educational evaluation process not only ensures compliance with Article 7, but allows for a collaborative approach of all educators to create meaningful and authentic goals for English learners.

This document is a collaborative effort of the Office of Special Education and the Office of English Learning and Migrant Education. If you have any questions regarding a special education evaluation of English learners, please contact:

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### **Article 7 Requirements and What it Means for English Learners**

#### **A. Educational evaluations in general [511 IAC 7-40-3(e)]**

A school district or charter school must establish, maintain, and implement procedures to ensure that assessments and other evaluation materials are provided and administered in the:

- (1) Student's native language or other mode of communication; and
- (2) Form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

**What does this mean for English learners?** School districts and charter schools must utilize data regarding the English learner's current level of English proficiency in order to determine if a test in English would yield any accurate information. Schools should not use an English only evaluation for English learners at low to intermediate levels of English proficiency, as English is not yet a reliable mode of communication for these students and would not yield accurate results of what the student knows and can do academically, developmentally, and functionally.

**B. Conducting an initial educational evaluation [511 IAC 7-40-5(b) and (c)]**

Article 7 describes, but does not limit, the qualified professionals that make up the multidisciplinary team that conducts an initial educational evaluation. The team must include at least one teacher licensed in the area of the suspected disability, but in various circumstances, must also include school psychologist, speech-language pathologist, or the student's general education teacher. Other individuals may be included on the multidisciplinary team depending on the student's needs.

**What does this mean for English learners?** In order to properly assess the effects of the English learner's limited English proficiency on the student's achievement and the language proficiency assessment data, the multidisciplinary team must include individuals with proper knowledge in this area, which includes the qualified English learner staff.

As part of the educational evaluation, the multidisciplinary team must review existing evaluation data including data on the student including current classroom, local, and state assessments; classroom based observations; and observations by teachers and related service providers.

**What does this mean for English learners?** The multidisciplinary team should review existing data on the student's English language proficiency. Qualified EL staff should participate in this review to share the student's performance on the federally and state required English language proficiency assessment, LAS Links, as these individuals have been trained on how to interpret the language proficiency assessment data and the effects on the English learner's achievement. In addition, qualified EL teachers need to share their classroom based observations for the English learner's performance in their classrooms.

**C. Determination of eligibility [511 IAC 7-40-6(b)]**

After an initial educational evaluation is conducted, the case conference committee meets to determine if the student is eligible for special education and related services. The case conference committee must **not** determine that a student is eligible for special education and related services if the determinant factor is limited English proficiency.

**What does this mean for English learners?** Qualified English learner staff should participate in the case conference committee meeting to provide information that will assist the case conference committee in making the eligibility determination.

**D. Specific learning disability [511 IAC 7-41-12]**

A specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that adversely affect the student's educational performance. A specific learning disability manifests itself when the student does not achieve adequately for the student's age or does not meet state approved grade level standards when provided with learning and experiences and instruction appropriate for the student's age or state approved grade level standards. One of the ways the disability can be evidenced is through insufficient progress to meet age or state approved grade level standards in reading, written expression, math, oral expression, or listening comprehension when using a process based on the student's response to scientific, research based intervention. However, a specific learning disability does NOT include learning problems that are primarily the result of Limited English proficiency.

**If the student is suspected of having a specific learning disability [511 IAC 7-40-5(g)]**

When a student is evaluated for a suspected specific learning disability, the multidisciplinary team must include in its evaluation report, a synthesis of the educational evaluation components in relationship to the effects of Limited English proficiency on the student's achievement.

**What does this mean for English learners?** Teachers of limited English proficient students, including EL teachers, utilize Indiana's state approved English Language Proficiency (ELP) standards to develop the English learners' academic language proficiency. This instruction must incorporate the English learner's Individual Learning Plan (ILP) and be appropriate to the student's current English proficiency level in order to accurately gauge whether the student has met the state approved ELP standards. Qualified EL staff must be able to share how the specific English learner is meeting these standards during the educational evaluation process. **NOTE:** Beginning in school year 2014-2015, Indiana will begin using the WIDA English language development (ELD) standards. More information regarding the WIDA ELD standards can be located at [www.wida.us](http://www.wida.us)

**E. Case conference committee participants [511 IAC 7-42-3]**

For each case conference committee meeting, the school district or charter school must include not fewer than one of the student's general education teachers and an individual who can interpret the instructional implications of evaluation results.

**What does this mean for English learners?** English learner teachers provide federally required English language development instruction, and sometimes may be the core English teacher for certain English learners depending on the local model used. In both of these cases, the English learner teacher provides the additional expertise needed to allow the CCC to meet the unique needs of the English learner being evaluated. The English learner teacher is also the individual with the expertise in order to interpret the instructional implications of the evaluation results on the English learner's current level of English proficiency.

Both the school and the parent also have the discretion to invite other individuals to the case conference committee meeting who have knowledge or special expertise regarding the student.

**What does this mean for English learners?** English Learner paraprofessionals, which often work daily with the English learners in multiple settings, will provide a great amount of knowledge regarding the English learner's current level of performance and rate of acquisition of English. Both English learner teachers and other EL staff often have a great rapport with the families, and will allow the case conference committee to best assess and plan for the needs of the student.

**F. Developing an individualized education plan (IEP) [511 IAC 7-42-6(c)]**

When the case conference committee is developing an IEP for a student, it must consider the language needs of a student with limited English proficiency as those needs relate to the student's IEP.

**What does this mean for English learners?** The English learner staff should be included in the case conference committee as their understanding of the English learner's limited English proficiency and second language acquisition is crucial when discussing the academic needs of the student. The limited English proficiency of the student will affect the academic needs of the student in regards to the disability, and all staff that provide services to the student need to collaborate when determining appropriate goals.

**G. Notices to Parents and Parent Participation in Case Conference Committee Meetings**

**Written notice of the initial evaluation** [511 IAC 7-40-4(f)]

The written notice of an educational evaluation that the school sends to the parent must be provided in the native language of the parent unless it is clearly not feasible to do so.

**Written notice of the case conference committee meeting** [511 IAC 7-42-2(c)]

The written notice of a case conference committee meeting that the school sends to the parent must be in the parent's native language.

**Case conference committee meetings** [511 IAC 7-42-5(c)]

The school must take whatever action necessary to ensure that the parent understands the case conference committee meeting proceedings, including arranging for an interpreter for a parent whose native language is not English.

**What does this mean for English learners?** School districts and charter schools should ascertain the native language of their English language students so that the school can provide written notices accordingly. The school must also provide an interpreter when needed for parental involvement in the evaluation process and case conference committee meetings in order for parents with limited English proficiency to fully participate in the educational evaluation and decision making process for their child. Please remember that the parents' English proficiency levels may vary greatly from the proficiency levels of their children. Any translation or

interpretation that is required, such as during the evaluation process, should be covered with state or federal special education funds. They **cannot** be paid with any Title funds.